



State of California
Employment Training Panel

Arnold Schwarzenegger, Governor

July 27, 2009

Jonathan Lee
Vice President and Executive Consultant
The Corporation for Manufacturing Excellence d.b.a. MANEX
2633 Camino Ramon, Suite 325
San Ramon, CA 94583

Dear Mr. Lee:

Enclosed is our final report relative to our review of The Corporation for Manufacturing Excellence's compliance with the Employment Training Panel Agreement No. ET06-0110 for the period July 6, 2005 through July 5, 2007.

Also enclosed is a demand letter for payment of costs disallowed in the review report. Payment is due upon receipt of this letter. If you wish to appeal the review findings, you must follow the procedure specified in Attachment A to the review report.

We appreciate the courtesy and cooperation extended to our reviewer during the review. If you have any questions, please contact Stephen Runkle, Audit Manager, at (916) 327-4758.

Sincerely,

Original signed by:

Stephen Runkle
Audit Manager

Enclosures

**THE CORPORATION FOR MANUFACTURING
EXCELLENCE d.b.a. MANEX**

Agreement No. ET06-0110

Final Review Report

For The Period

July 6, 2005 through July 5, 2007

Report Published July 27, 2009

Stephen Runkle, Audit Manager
Telephone: (916) 327-4758

Audit Staff: Shannon Brooks

Employment Training Panel
Audit Unit
1100 J Street FL 4
Sacramento, CA 95814-2827

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REVIEW REPORT

Summary

We reviewed The Corporation for Manufacturing Excellence's compliance with Agreement No. ET06-0110, for the period July 6, 2005 through July 5, 2007. Our review pertained to training costs claimed by the Contractor under this Agreement. Our review was performed during the period February 17, 2009 through May 12, 2009.

The Employment Training Panel (ETP) reimbursed the Contractor a total of \$457,916. Our review supported \$457,360 is allowable. The balance of \$556 is disallowed and must be returned to ETP. The disallowed costs resulted from one trainee who did not meet full-time employment requirements.

REVIEW REPORT (continued)

Background

Located in Hayward, The Corporation for Manufacturing Excellence d.b.a. MANEX (MANEX) is a non-profit corporation formed to help small and medium-sized manufacturers in specific manufacturing industries.

This Agreement was the seventh between MANEX and ETP. MANEX primarily provides training to employers in the following five industries that represent 65 percent of the manufacturers in Northern California: Metal machining, electronics, food processing, biotechnology instrumentation and software/multimedia. According to significant research, Northern California employers in these industries are primarily small and medium-sized manufacturers facing tough out-of-state competition. Therefore, MANEX specifically tailors training to help these types of employers become more efficient and remain competitive. This Agreement provided training in Advanced Technology, Business Skills, Computer Skills, Continuous Improvement, Hazardous Materials, Literacy Skills, and Manufacturing Skills.

This Agreement allowed MANEX to receive a maximum reimbursement of \$2,773,550 for retraining 2900 employees. During the Agreement term, the Contractor placed 564 trainees and was reimbursed \$457,916 by ETP.

Objectives, Scope, and Methodology

We performed our review by authority of Title 22 California Code of Regulations, Sections 4443 and 4448. Our scope was limited to reviewing the Contractor's compliance with trainee eligibility and post-training requirements specified in the Agreement. We did not review the Contractor's records for compliance with training attendance or other Agreement requirements.

Specifically, our review scope included, but was not limited to, conducting compliance tests to determine whether:

- Trainees were eligible to receive ETP training.
- Trainees were employed continuously full-time with a participating employer for 90 consecutive days after completing training, and the 90-day retention period was completed within the Agreement term.
- Trainees were employed in the occupation for which they were trained and earned the minimum wage required at the end of the 90-day retention period.

REVIEW REPORT (continued)

Conclusion	As summarized in Schedule 1, the Summary of Review Results, and discussed more fully in the Finding and Recommendation Section of our report, our review supported \$457,360 of the \$457,916 paid to the Contractor under this Agreement is allowable. The balance of \$556 is disallowed and must be returned to ETP.
Views of Responsible Officials	The review findings were discussed with Jonathan Lee, Vice President and Executive Consultant, during a telephone exit conference held on May 12, 2009. Mr. Lee agreed to bypass a draft report and proceed directly to the final review report.
Appeal Rights	If you wish to appeal the review findings, it must be filed in writing with the Panel's Executive Director within 30 days of receipt of this audit report. The proper appeal procedure is specified in Title 22, California Code of Regulations, Section 4450 (attached).
Records	Please note the ETP Agreement, Paragraph 5, requires you to assure ETP or its representative has the right, "...to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents or other evidence directly related to the performance of this Agreement by the Contractor... This right will terminate no sooner than four (4) years from the date of termination of the Agreement or three (3) years from the date of the last payment from ETP to the Contractor, or the date of resolution of appeals, audits, or litigation, whichever is later."

Stephen Runkle
Audit Manager

Fieldwork Completion Date: May 12, 2009

This report is a matter of public record and its distribution is not limited. The report is intended for use in conjunction with the administration of ETP Agreement No. ET06-0110 and should not be used for any other purpose.

SCHEDULE 1 – Summary of Review Results

THE CORPORATION FOR MANUFACTURING EXCELLENCE d.b.a. MANEX

AGREEMENT NO. ET06-0110

FOR THE PERIOD

JULY 6, 2005 THROUGH JULY 5, 2007

	<u>Amount</u>	<u>Reference*</u>
Training Costs Paid By ETP	<u>\$ 457,916</u>	
Costs Disallowed:		
Full-Time Employment Requirements Not Met	<u>556</u>	Finding No. 1
Total Costs Disallowed	<u>\$ 556</u>	
Training Costs Allowed	<u><u>\$ 457,360</u></u>	

* See Finding and Recommendation Section.

ATTACHMENT A - Appeal Process

FINDING NO. 1 – The Corporation for Manufacturing Excellence d.b.a. MANEX Full-Time (MANEX) received reimbursement for one Job No. 7 trainee who Employment was not employed full-time during their post-training retention Requirements Not period per Agreement requirements. As a result, we disallowed Met \$556 in training costs claimed for this trainee.

Exhibit A, paragraph VII. A.1 of the Agreement states, “Each trainee must be employed full time, at least 35 hours per week with a single participating employer for a period of at least ninety (90) consecutive days immediately following the completion of training.”

MANEX reported that Trainee No. 1 completed a post-training retention period from November 4, 2006, through February 1, 2007, at a wage rate of \$21.91 per hour. The employer of Trainee No. 1 confirmed the MANEX reported wage rate and indicated he worked 40 hours per week. However, based on the hourly wage rate, Employment Development Department (EDD) base wage information supports that this trainee only worked an average of 32.3 hours per week during the retention period. Although the ETP reviewer requested payroll documents to support that Trainee No. 1 worked an average of 40 hours during retention, as the employer had stated in response to an Employment Verification Questionnaire, no such documentation was provided during the review. Furthermore, EDD base wages support Trainee No. 1 was not employed full-time during any subsequent 90-day period up to the Agreement end date.

Recommendation MANEX must return \$556 to ETP. In the future, the Contractor should ensure all trainees meet full-time employment requirements during their post-training retention period before claiming reimbursement from ETP.

ATTACHMENT A - Appeal Process

4450. Appeal Process.

- (a) An interested person may appeal any final adverse decision made on behalf of the Panel where said decision is communicated in writing. Appeals must be submitted in writing to the Executive Director at the Employment Training Panel in Sacramento.
- (b) There are two levels of appeal before the Panel. The first level must be exhausted before proceeding to the second.
 - (1) The first level of appeal is to the Executive Director, and must be submitted within 30 days of receipt of the final adverse decision. This appeal will not be accepted by the Executive Director unless it includes a statement setting forth the issues and facts in dispute. Any documents or other writings that support the appeal should be forwarded with this statement. The Executive Director will issue a written determination within 60 days of receiving said appeal.
 - (2) The second level of appeal is to the Panel, and must be submitted within 10 days of receipt of the Executive Director's determination. This appeal should include a statement setting forth the appellant's argument as to why that determination should be reversed by the Panel, and forwarding any supporting documents or other writings that were not provided at the first level of appeal to the Executive Director. If the Panel accepts the appeal and chooses to conduct a hearing, it may accept sworn witness testimony on the record.
 - (A) The Panel must take one of the following actions within 45 days of receipt of a second-level appeal:
 - (1) Refuse to hear the matter, giving the appellant written reasons for the denial; or
 - (2) Conduct a hearing on a regularly-scheduled meeting date; or
 - (3) Delegate the authority to conduct a hearing to a subcommittee of one or more Panel members, or to an Administrative Law Judge with the Office of Administrative Hearings.
 - (B) The Panel or its designee may take action to adopt any of the administrative adjudication provisions of the Administrative Procedures Act at Government Code Section 11370 *et seq.*, for the purpose of formulating and issuing its decision. Said action may take place at the hearing, or in preliminary proceedings.
 - (C) Upon completion of the hearing, the record will be closed and the Panel will issue a final ruling. The ruling may be based on a recommendation from the hearing designee. The ruling shall be issued in a writing served simultaneously on the appellant and ETP, within 60 days of the record closure.
- (c) The time limits specified above may be adjusted or extended by the Executive Director or the Panel Chairman for good cause, pertinent to the level of appeal.
- (d) Following receipt of the Panel's ruling, the appellant may petition for judicial review in Superior Court pursuant to Code of Civil Procedure Section 1094.5. This petition must be filed within 60 days from receipt of the Panel's ruling.

Authority: Section 10205(m), Unemployment Insurance Code; Section 11410.40, Government Code.

Reference: Sections 10205(k), 10207, Unemployment Insurance Code.

Effective: April 15, 1995

Amended: December 30, 2006